

Conway

L A W S.

December Session, 1799.



THE
L A W S
OF THE
STATE OF NEW-HAMPSHIRE,

PASSED AT A SESSION
OF THE
HONORABLE GENERAL COURT,

BEGUN AND HOLDEN AT EXETER,

December, 1799.

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THE
L A W S
OF THE
STATE OF NEW-HAMPSHIRE,

PASSED AT A SESSION OF THE GENERAL COURT, BEGUN DECEMBER, 1799.



AN ACT declaring the tenure which certain officers shall have in their respective offices. Passed Dec. 18, 1799.

BE it enacted by the Senate and House of Representatives in General Court convened, That the following officers, to wit, Attorney General, Solicitors and Sheriffs hereafter to be appointed, shall hold their respective offices for and during the term of five years from the time of their respective appointments; subject to be removed by the Senate by impeachments, and by the Governor with consent of Council, upon the address of both Houses of the Legislature.

Approved Dec. 18, 1799.

Passed Dec. 24, 1794. AN ACT in addition to an act declaring the mode of conveyance by deed, passed the 10th day of February 1799.

Preamble.

WHEREAS in and by said act, it is among other things enacted, "that where the witnesses to any deed or other conveyance shall be dead before the same shall be acknowledged, and the grantor or grantors are also dead, the proof of the hand writing of the grantor or grantors, and of the subscribing witnesses thereto made by the oath of two witnesses before any Court of record within this State, shall be equivalent to the acknowledgment of such grantor or grantors before any justice of the peace."

"Provided, That it shall be made to appear to the satisfaction of the justices of the Court before whom such proof shall be made, that the grantee or grantees in said deed or conveyance mentioned, have, in the life time of the grantor or grantors, taken actual possession of the real estate conveyed by said deed, and that such grantee or grantees, or some person or persons claiming under him, he, or them, have continued such actual possession quietly to the time when such application shall be made to such Court, for the purposes aforesaid :"

But no provision is made in said act, where the witnesses, whose names are subscribed to such deed, shall have gone beyond sea, or removed out of the United States before the deed be acknowledged.

BE it therefore enacted by the Senate and House of Representatives in General Court convened, That where the witnesses, whose names are subscribed to any deed of bargain and sale, or other conveyance, shall have gone beyond sea or removed out of the United States before the same deed shall be acknowledged, the proof of the hand writing of such subscribing witnesses, may be made in the same cases, and in the same manner, and shall have the same effect and validity as such proof, when made, pursuant to the said act in case of the death of the subscribing witnesses.

Approved Dec. 24, 1799.

AN ACT in addition to “an act for arranging the militia into divisions,” passed December the twenty-seventh, one thousand seven hundred and ninety-two. Passed Dec. 26, 1799.

BE it enacted by the Senate and House of Representatives in General Court convened, That the companies in the town of Plainfield and the north company, and the Light Infantry in the town of Cornish, and the west company in New-Granatham form a first battalion, that the other company in Cornish, and the companies in Claremont form a second battalion, which shall constitute the fifteenth regiment. 1st Bat.
2d Bat.
15th Reg.

That the companies in Newport and Wendell form a first battalion, that the companies in Croydon, Springfield, and the east company in New-Granatham form a second battalion, which shall constitute the thirty-first regiment. 1st Bat.
2d Bat.
31st Reg.

Approved Dec. 26, 1799.

AN ACT to restrain unincorporated Banking Associations. Passed Dec. 27, 1799.

WHEREAS the association of persons for the purpose of forming a Bank or Fund for the receiving deposits, issuing notes or bank bills, making discounts, and transacting the banking business, may and often does prove highly injurious to the public ;—And whereas in every State it belongs to the supreme power thereof, to erect and establish such Banks as they may judge necessary and useful, and to prescribe rules for the government of the same, as also to prohibit and restrain all persons, not authorised thereto by law, from carrying on the banking business :—Therefore, Preamble.

BE it enacted by the Senate and House of Representatives in General Court convened, That every company or association of persons formed, or to be formed, for the purpose of establishing a bank or fund for receiving deposits, issuing notes or bank bills, making discounts, or loaning money, or bank bills, and transacting the business which incorporated banks may or do transact by virtue of an act or acts of incorporation, and every such institution, propriety or bank formed, or to be formed, without an act of the legislature Banking, unless authorised unlawful.

legislature authorizing the same, shall be deemed, and the same is hereby declared unlawful. And if any person not authorized as aforesaid, shall subscribe to, or become a proprietor, partner or stockholder in such fund or bank, or become a member of such institution, company or association, he shall forfeit and pay for every such offence, a sum not exceeding *one thousand dollars*, nor less than *four hundred dollars*, to be recovered by any person who will sue for the same, in an action of debt, one half thereof to his own use, and the other to the use of the State.

Forfeiture
for being
concerned.

And be it further enacted, That if any person shall be concerned or interested in behalf of any such unincorporated company, association or bank institution, in the issuing of any notes, or bank bills, receiving any deposits, discounting any notes, loaning any money, or bank notes or bills, or signing any such notes or bills as president or cashier, or in any other way aiding or assisting in carrying on the business of such unincorporated bank, such person shall for every such offence, forfeit and pay the sum of *one hundred dollars*, to be recovered and disposed of in manner aforesaid.

Notes, &c.
null and
void.

And be it further enacted, That all notes or securities for the payment of money, or delivery of property which shall be made, given, endorsed, or transferred to any such unincorporated bank, company, or association, as before described, or which shall be received by any such unincorporated bank, company, or association, in payment of money, bank notes, or bills loaned, or discounts made by them, or which shall be made, given, or transferred to, or received by any person or persons for their benefit and use, shall be null and void.

Holders of
notes shall
recover, &c.

And be it further enacted, That every person who shall hold any bank note or bill issued or paid out by any such unincorporated association, bank, or company, their agents, officers or servants, shall be intitled to demand and recover the full sum expressed in such bank note or bill, of such company, association, or bank, the president, cashier or any member or stockholder thereof at his election.

Not to effect
any bank
already
formed.

And be it further enacted, That this act shall not be construed to effect any such company, propriety, association,

association, or bank already formed, or any person or persons who shall become member or members thereof until the first day of August next.

Approved December 27, 1799.

AN ACT further to postpone the operation of an act intituled, "an act to regulate scale beams, steelyards, weights and measures," passed the twelfth day of December, one thousand seven hundred and ninety-seven. Passed Dec. 30, 1799.

BE it enacted by the Senate and House of Representatives in General Court convened, That the operation of the aforementioned act, and every clause and matter therein, be postponed for the term of one year, from and after the passing of this act, and no longer.

Approved Dec. 30, 1799.

AN ACT in addition to, and amendment of an act, intituled, "an act for the limitation of actions and for preventing of vexatious suits," passed the sixteenth day of June 1791. Passed Dec. 30, 1799.

BE it enacted by the Senate and House of Representatives in General Court convened, That the aforesaid act shall not extend to bar any action hereafter brought upon any note in writing, made and signed by any person or persons for securing the payment of which a mortgage has been, or shall be given; nor shall it extend to bar any action brought by any mortgagee against the mortgager upon a mortgage where no note is given; but that the same shall remain as though said act had never been made. Not to bar certain actions, &c.

And be it further enacted, That the act aforesaid shall not extend to bar any action hereafter brought upon any contract therein mentioned, by any executor or administrator until the expiration of two years from the time of proving the will, or taking out letters of administration, provided the testator or intestate had cause of action at the time of his or her decease, nor shall said act be construed to bar any action hereafter brought against any executor or administrator, until the expiration of two years from the time of proving the will, or taking letters of administration, provided Not to bar any action brought by executors, &c.

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the

the testator or intestate was liable to an action at the time of his or her decease, any thing in said act to the contrary notwithstanding.

Approved Dec. 30, 1799.

Passed Dec. 30, 1799. **AN ACT** for raising twenty-seven thousand dollars for the use of this State.

BE it enacted by the Senate and House of Representatives in General Court convened, That there be raised the current year for the use of this State, *twenty-seven thousand dollars*, which sum shall be assessed, collected, and paid into the treasury, on or before the first day of December next, and is appropriated for discharging the debts due from this State, and for the support of Government.

Sum granted.
ed.

And be it further enacted, That the Treasurer be, and he hereby is directed, seasonably to issue his warrants to the selectmen or assessors of the several towns and places in this State, agreeable to the last proportion act, for assessing and collecting the aforesaid sum of *twenty-seven thousand dollars*. And the selectmen and assessors aforesaid, are hereby required respectively to assess and levy the same according to law, and cause the same to be paid into the treasury of this State, on or before the first day of December next, and the Treasurer shall issue his extents for all taxes which shall then remain unpaid.

Treasurer to
issue war-
rants.

Selectmen
to assess, &c.

Approved Dec. 30, 1799.

RESOLVED, that each company of Artillery now formed, or that may be hereafter formed, when organized, be furnished at the expence of this State; with at least one piece of ordnance, with carriage, harness and apparatus compleat; one small standard, and the same allowance for music that are granted to the companies of Infantry; that to each piece of ordnance be annually allowed twenty-five pounds of cannon powder, ten balls suitable for the same, and four pieces of port-fire.

Approved Dec. 21, 1799.

AN ACT for the better observation of the Lord's day, and for repealing all the laws heretofore made for that purpose.

Passed Dec. 24, 1799.

BE it enacted by the Senate and House of Representatives in General Court convened, That no tradesman, artificer or any other person whatsoever shall do, or exercise any labour, business or work of their secular callings, works of necessity and mercy only excepted, nor use any game, play or recreation on the first day of the week, commonly called the Lord's day, or any part thereof, upon pain that every person so offending shall forfeit a sum not exceeding six dollars nor less than one.

Labor & recreation forbidden.

And be it further enacted, That no person shall travel on the Lord's day between sun-rising and sun-setting, unless from necessity, or to attend public worship, visit the sick, or do some office of charity, on penalty of a sum not exceeding six dollars, nor less than one.

Travelling prohibited.

And be it further enacted, That no taverner, retailer or other person keeping a public house of entertainment, shall suffer any of the inhabitants of the respective towns where they dwell, or others, not being strangers, or lodgers in such houses, to abide or remain in the houses, yards or appendages thereof, drinking or idly spending their time on the Lord's day, upon the pain and penalty aforesaid. And the person or persons who shall be found so drinking or abiding in such house, or dependencies thereof as aforesaid, shall each suffer the like penalty.

Keepers of public houses forbidden to entertain inhabitants.

And be it further enacted, That each town and district within this State shall at the time of choosing town or district officers, annually and every year, choose by ballot certain persons, being of good substance and sober life, to be tythingmen of such town or district, of which officers no town or district shall appoint less than two, whose duty it shall be to inform of all breaches of this act.

Tythingmen to be chosen.

And be it further enacted, That if any person shall on the Lord's day, within the walls of any house of public worship, or about such house, whether in the time of public service or between the forenoon and afternoon services of said day, or on any part thereof, behave rudely or indecently, he or she shall pay a fine not exceeding six dollars, nor less than fifty cents.

Rudeness at places of public worship fined.

And

Evidence re-
quired.

And be it further enacted, That the oath of any tythingman or selectman shall be deemed full and sufficient evidence, upon trial of any offence against this act, unless in the judgment of the court, or justice, the same shall be invalidated by other evidence that may be produced.

Parents, &c.
liable.

And be it further enacted, That the parents of any children under age, the guardians of any minors, and the masters of servants, who shall have no parents or guardians, shall be respectively liable for the fines and costs of their children, wards or servants, who shall be convicted of any offence against this act. And the said fines and costs may be levied by warrant of distress issued against the parent, guardian or masters, as the case may be, according to the form herein after prescribed. *Provided always,* that such parent, guardian or master, shall be duly notified of the time and place appointed for the trial of such children, minors or servants for the offences aforesaid.

Power of
tythingmen.

And be it further enacted, That it shall be lawful for each and every selectman and tythingman within their respective precincts, to take and command such assistance as may be needful, and forcibly to stop and detain any person or persons they shall suspect of travelling unnecessarily on said day, for and during such time, as shall be necessary for demanding the cause or reason of such person's travelling, his name and place of abode, and receiving the answer to such demands. And in case any such person shall not give satisfaction to the selectman or tythingman, demanding the same, that there is sufficient reason for his travelling, such selectman or tythingman shall have full power and authority to detain in his custody such person or persons, until a regular trial can be had, and to command the necessary aid therefor.

Fine for not
giving aid.

And be it further enacted, That if any person shall refuse to give aid and assistance to any selectman or tythingman, who may require the same for the purposes aforesaid, such person so refusing, shall, upon conviction thereof, be fined in a sum not exceeding six dollars, nor less than one.

Fine for giv-
ing false an-
swers.

And be it further enacted, That if any person found travelling upon the Lord's day, shall give any false answer to any of the before mentioned questions, which

which may be asked him by any selectman or tythingman, the said person shall, upon conviction thereof, be fined in a sum not exceeding thirteen dollars, nor less than one.

And be it further enacted, That the selectmen of the several towns and places in this state, and the tythingmen chosen as aforesaid, be, and they hereby are required to inform of all breaches of this act within their precincts. And if any person charged with a breach of this act, shall be acquitted upon trial, he shall recover costs against the complainant, unless the complainant be a selectman or tythingman, and in that case no cost shall be allowed to the person acquitted. And for the better execution of all and every of the foregoing orders, every justice of the peace, within the county where any offence against this act shall be committed, shall have power and authority to convene before him any person or persons offending as aforesaid, and upon his own view, or other evidence sufficient to convict any person of such offence, to impose the fine and penalty for the same with costs, and to restrain and commit the offenders until the same be satisfied, or to cause such fine, penalty and costs to be levied by distress and sale of the offender's goods, returning the overplus, if any be. All fines and penalties accruing by this act, to be for the benefit and relief of the poor of such town or place where the offence is committed, and delivered into the hands of the selectmen or overseers of the poor for that purpose.

And be it further enacted, That any person shall have the right to appeal to the court of common pleas from any sentence of a justice given against him or her in pursuance of this act, he or she recognizing with sufficient sureties to prosecute his or her appeal with effect. *Provided nevertheless,* that it shall and may be lawful for any justice of the peace, on application to grant a licence for any person to travel, or do any secular business on said day, which shall appear to him to be a work of necessity or mercy. And such certificate shall be a bar to any prosecution therefor. And the informing officers aforesaid shall have a right to enquire of any person apparently offending against this act, the cause or necessity of his so doing, and if he

Right of appeal.

he or she shall neglect or refuse to assign such reason or reasons as may appear on trial to be sufficient, or show such certificate, he or she shall pay costs of prosecution, any other reason he or she shall give on trial notwithstanding.

Time of
prosecution
limited.

And be it further enacted, That all prosecutions for offences against this act shall be commenced within thirty days after the offence shall have been committed and not afterward.

And be it further enacted, That the warrant of distress before mentioned may be in the form following :

STATE OF NEW-HAMPSHIRE.

Form of
warrant.

R ff.

To the Sheriff of the said County of R
or his Deputy, or any Constable of *in said*
County.

GREETING.

WHEREAS O. F. an infant under the age of twenty-one years, on the day of at in said county of R before the subscriber one of the justices assigned to keep the peace within and for said county, was duly convicted of [here describe the offence as it is described in the complaint or conviction] which offence was committed contrary to the form of an act intitled "an act for the better observation of the Lord's day, and for repealing all the laws heretofore made for that purpose ;" and for said offence the said O. F. was ordered to pay a fine of and costs of prosecution, amounting in the whole to the sum of and whereas A. B. of &c. (Addition) at the time of the conviction aforesaid was [parent, guardian or master as the case may be] of the said O. F. and by law liable for the said fine and costs, and hath been duly notified of said conviction, and the same fine and costs still remaining unpaid—These are therefore in the name of the State of New-Hampshire to command you to levy the said sum of by distress and sale of the goods and chattels of the said A. B. found within your precinct, and the same sum when levied to pay to the subscriber, to be disposed of according to law. And for want of such goods or chattels of the said A. B. to take the body of the said A. B. and
him

him commit unto the gaol in _____ and the keeper of said gaol is hereby commanded to receive the said A. B. into his custody, and him detain in said gaol until he pay the aforesaid sum of _____ with fifty cents more for this warrant, together with all fees, or until he be discharged by order of law.—Hereof fall not and make due return of this warrant, with your doings therein, unto the subscriber, within sixty days next coming.

Given under my hand and seal at
in said County the _____ day of
A. D. _____

J. P.

And be it further enacted, That the said warrant of distress shall be served and executed in the same way and manner as executions against the body and personal estate are by law to be served and executed, and the officer serving the same shall be intitled to demand the same fees as he may lawfully demand for the service of such executions and no more. How served, &c.

And be it further enacted, That all the laws heretofore made in this State for the better observation of the Lord's day, be and they hereby are repealed. Repealing clause.
Provided nevertheless, that this act shall not be in force until the first day of March next.

And it is hereby recommended to the ministers of the gospel to read this act publicly in their congregations annually, on the Lord's day next after the choice of town officers. Recommendation.

Approved December 24, 1799.

AN ACT to incorporate a company by the name of _____ the proprietors of the second Turnpike Road in _____ New-Hampshire. Passed Dec. 26, 1799.

BE it enacted by the Senate and House of Representatives in General Court convened, That Josiah Stevens, Isaac Green, and Nathan Coolidge and their associates and successors, be, and they are hereby incorporated and made a body corporate and politic, under the name of the proprietors of the second Turnpike Road in New-Hampshire, and in that name may sue and prosecute, and be sued and prosecuted to final judgment and execution, and shall be, and hereby are vested Incorporation.

vested with all the powers and privileges which by law are incident to corporations of a similar nature.

Proprietors
may estab-
lish by-laws.

And be it further enacted, That the said Josiah Stevens shall call a meeting of said proprietors, by advertisement in the newspapers printed at Walpole and Amherst, to be holden at any suitable time and place, at least fourteen days from the first publication of said advertisement, and the proprietors, by a vote of a majority of those present or represented at said meeting, accounting and allowing one vote to each share in all cases, shall choose a clerk, who shall be sworn to the faithful discharge of said office, and shall also agree on the method of calling future meetings, and at the same time, or at any subsequent meetings, may elect such officers and make and establish such rules and by-laws, as to them shall seem necessary and convenient, for the regulation and government of said corporation, for carrying into effect the purpose aforesaid, and for collecting the tolls herein after established, and the same by-laws may cause to be executed, and annex penalties to the breach thereof, provided the said rules and by-laws are not repugnant to the constitution and laws of this State; and all representations shall be proved by writing signed by the person to be represented, which shall be filed with the clerk, and this act and all rules, by-laws, regulations and proceedings of said corporation, shall be fairly and truly recorded by the clerk, in a book or books provided and kept for that purpose.

May lay out
a road.

And be it further enacted, That the said corporation are impowered to survey, lay out, make and keep in repair, a turnpike road of four rods wide, in such rout or tracts as in the best of their judgment and skill, shall combine shortness of distance, with the most practicable ground, from the lottery bridge in Claremont, to the plain in Amherst in this State near the court house.

To make
compensa-
tion.

And be it further enacted, That if the said proprietors and the owners of land, over which the road may run, shall disagree on the compensation to be made for said land, and the building or buildings thereon standing, and shall not agree in appointing persons to ascertain such compensation, the judges of the court of common pleas in the county in which said

said land lies, if not interested, and if interested, the Judges of the Superior Court, upon application of the said proprietors, or the owners of the land, reasonable notice of such application having been given by the applicants to the adverse party, shall appoint a committee, who shall ascertain the same, in the same way as compensation is made to owners of land for highways as usually laid out, and execution, on non-payment, against said proprietors shall issue of course.

And be it further enacted, That the corporation may erect and fix such, and so many gates or turnpikes upon and across said road, as will be necessary and sufficient to collect the tolls and duties herein after granted to the said company, from all persons traveling in the same with horses, cattle, carts and carriages. May fix gates.

And be it further enacted, That it shall and may be lawful for said company to appoint such, and so many toll gatherers as they shall think proper, to collect and receive of, and from all and every person or persons using said road, the tolls and rates herein after mentioned, and to stop any person riding, leading, or driving any horses, cattle, hogs, sheep, fulkey, chair, chaise, phaeton, coach, charriot, cart, waggon, sleigh, sled, or other carriage of burden or pleasure, from passing through the said gates or turnpikes, until they shall have respectively paid the same, that is to say, for every mile of said road, and so in proportion for a greater or less distance, or greater or smaller number of sheep, hogs or cattle, viz. for every ten sheep or hogs, *one cent*; for every ten cattle or horses, *two cents*; for every horse and his rider or led horse, *one cent*; for every fulkey, chair or chaise, with one horse and two wheels, *two cents*; for every charriot, coach, stage, waggon, phaeton or chaise with two horses and four wheels, *three cents*; for either of the carriages last mentioned with four horses, *four cents*; for every other carriage of pleasure, the like sums according to the number of wheels and horses drawing the same; for each cart or other carriage of burthen, drawn by one beast, *one cent*; for each waggon, cart or other carriage of burden, drawn by two beasts, *one cent and an half*; if by more than two beasts, *one cent* for each additional yoke of oxen or horse; for each sleigh drawn by one horse,

C

Appoint toll gatherers.
The toll.

horse, *one cent*, if drawn by two horses, *two cents*, and if by more than two horses, *one cent* for every additional horse; for each sled drawn by one horse, *one cent*; for each sled drawn by two horses or a yoke of oxen, *one and a quarter cent*; and if by more than two horses or one yoke of oxen, *one cent* for each additional pair of horses or yoke of oxen; and at all times, when the toll gatherer shall not attend his duty, the gates shall be left open. And if any person shall, with his carriage, team, cattle or horses, turn out of the said road, to pass the said turnpike gate on ground adjacent thereto, with intent to avoid the payment of the toll due by virtue of this act, such person shall forfeit and pay three times so much as the legal toll would have been, to be recovered by the treasurer of the said corporation, to the use thereof, in an action of debt or on the case; provided that nothing in this act shall extend to intitle the said corporation to demand toll of any person, who shall be passing with his horse or carriage, to or from public worship, or with his horse team or cattle, or on foot, to or from a mill, or on the common and ordinary business of family concerns within the same town.

May hold
lands.

And be it further enacted, That the said proprietors are hereby impowered to purchase and hold in fee simple so much land as will be necessary for said turnpike road, and the share or shares of any of said proprietor may be transferred by deed duly executed and acknowledged, and recorded by the clerk of said proprietor on their records; and the share or shares of any proprietors, may be sold by said corporation on non-payment of assessments duly made, agreeable to the by laws that may be agreed upon by said corporation.

When toll
may be taken.

And be it further enacted, That no toll shall be taken by said corporation for any mile of said road, until *eight hundred dollars* shall have been expended thereon or a proportionate sum upon the whole number of miles, reckoning from the lottery bridge in Claremont to the place where said road may terminate.

Maybe fined
for defect of
repairs.

And be it further enacted, That said corporation may be indicted for defect of repairs of said road, after the toll gates are erected, and fined in the same way and manner as towns are by law finable for suffering roads to be out of repair; and said fine may be levied on the profits

profits and tolls arising or accruing to said proprietors.

Provided nevertheless, and be it further enacted, That if Proviso.
the said turnpike road shall in any part be the same,
with any highway now used, it shall not be lawful for
said corporation to erect any gate or turnpike on or
across said part of the road, that now is used and oc-
cupied as a public highway, any thing in this act to
the contrary notwithstanding.

And be it further enacted, That when said proprietors May erect
gates.
shall make it appear to the Judges of the Superior
Court of Judicature, that they have expended said sum
of *eight hundred dollars* on each mile, or a proportiona-
ble sum as before mentioned, the proprietors shall have
the liberty to erect the gates as aforesaid.

And be it further enacted, That at the end of every Accounts to
be laid be-
fore S. C.
ten years, after the setting up any toll gate, an account
of the expenditures upon said road, and the profits a-
rising therefrom, shall be laid before the Judges of the
Superior Court for the time being, under forfeiture of
the privileges of this act in future; and if the neat pro-
fits for the said ten years, shall exceed twelve per cent
per annum, the said court may reduce the future toll,
so far as that it may not exceed twelve per cent, and
if the profits shall not amount to six per cent, the
said court may raise the toll, so that it shall not be
less than six, nor exceed twelve per cent.

And be it further enacted, That if in ten years the
said road shall not be compleated, according to the In case null
and void.
provision in this act, every part and clause thereof
shall be null and void: *Provided also,* that the State
of New-Hampshire, may at any time after the expira-
tion of forty years from the passing of this act, repay State may
repay, &c.
the proprietors of said road the amount of the sum
expended by them thereon, with twelve per cent per
annum in addition thereto, deducting the toll ac-
tually received by the proprietors, and in that case,
the said road shall, to all intents and purposes, be the
property of the State of New-Hampshire, any thing
in this act to the contrary notwithstanding.

Approved December 26, 1799.

Passed Dec.
27, 1799.

Incorporation.

Proprietors
may make
& establish
rules, &c.

Time.

AN ACT to incorporate a company by the name of the proprietors of the third Turnpike Road in New-Hampshire.

BE it enacted by the Senate and House of Representatives in General Court convened, That Frederick William Geyer, Benjamin Bellows, Benjamin West, Amasa Allen, John Bellows, Daniel Newcomb, Peleg Sprague and Josiah Richardson and their associates and successors, be, and they are hereby incorporated and made a body corporate and politic, under the name of the proprietors of the third turnpike road in New-Hampshire, and in that name may sue and prosecute, and be sued and prosecuted to final judgment and execution, and shall be, and hereby are vested with all the powers and privileges which by law are incident to corporations of a similar nature.

And be it further enacted, That the said Frederick William Geyer, or Benjamin Bellows shall call a meeting of said proprietors by advertisement in the newspaper printed at Walpole, to be holden at any suitable time and place, at least thirty days from the first publication of said advertisement, and the proprietors, by a vote of a majority of those present or represented at said meeting, accounting and allowing one vote to each share in all cases, shall choose a clerk, who shall be sworn to the faithful discharge of said office, and shall also agree on the method of calling future meetings, and at the same or at any subsequent meetings, may elect such officers, and make and establish such rules and by laws, as to them shall seem necessary and convenient for the regulation and government of said corporation, for carrying into effect the purpose aforesaid, and for collecting the tolls herein after established, and the same by laws may cause to be executed, and annex penalties to the breach thereof, provided the said rules and by laws are not repugnant to the constitution and laws of this State; and all representations shall be proved by writing signed by the person to be represented, which shall be filed with the clerk, and this act, and all rules, by laws, regulations and proceedings of said corporation, shall be fairly and truly recorded by the clerk, in a book or books provided and kept for that purpose.

And be it further enacted, That the said corporation
are

are Impowered to survey, lay out, make and keep in repair, a turnpike road of four rods wide, in such rout or tracts, as in the best of their judgment and skill, shall combine shortness of distance with the most practicable ground from Bellows' falls in Walpole on Connecticut river, through Keene, towards Boston to Massachusetts line. May lay out a road.

And be it further enacted, That if said proprietors and the owners of land over which the road may run, shall disagree on the compensation to be made for said land, and the building or buildings thereon standing, and shall not agree in appointing persons to ascertain such compensation, the Judges of the Court of Common Pleas in the county in which said land lies, if not interested, and if interested, the Judges of the Superior Court upon application of the said proprietors, or the owners of the land, reasonable notice of such application having been given by the applicants to the adverse party, shall appoint a committee who shall ascertain the same, in the same way as compensation is made to owners of land for highways as usually laid out, and execution, on non-payment, against said proprietors, shall issue of course. Compensation.

And be it further enacted, That the corporation may erect and fix such and so many gates or turnpikes upon and across said road, as will be necessary and sufficient to collect the tolls and duties herein after granted to the said company, from all persons travelling in the same with horses, cattle, carts and carriages. May fix gates.

And be it further enacted, That it shall and may be lawful for said company to appoint such, and so many toll gatherers as they shall think proper, to collect and receive of, and from all and every person or persons using said road, the tolls and rates herein after mentioned, and to stop any person, riding, leading, or driving any horses, cattle, hogs, sheep, fulkey, chair, chaise, phaeton, coach, charriot, cart, waggon, sleigh, sled, or other carriage of burthen or pleasure, from passing through the said gates or turnpikes, until they shall have respectively paid the same, that is to say, Toll, for every mile of said road, and so in proportion for a greater or less distance, or greater or smaller number of sheep, hogs or cattle, viz. for every fifteen sheep or hogs, one cent; for every fifteen cattle or horses, two cents;

cents ; for every horse and his rider, or led horse, *three fourths of one cent* ; for every fulkey, chair or chaise with one horse and two wheels, *one and half cents* ; for every charriot, coach, stage, waggon, phaeton or chaise, with two horses and four wheels, *three cents* ; for either of the carriages last mentioned with four horses, *four cents* ; for every other carriage of pleasure, the like sums according to the number of wheels and horses drawing the same, for each cart or other carriage of burthen with wheels drawn by one beast, *one cent* ; for each waggon, cart or other carriage of burthen drawn by two beasts, *one and half cents* ; if by more than two beasts, *one cent* for each additional yoke of oxen or horse ; for each sleigh drawn by one horse, *three fourths of one cent* ; if drawn by two horses, *one and half cents* ; and if by more than two horses, *half a cent* for every additional horse, for each sled drawn by one horse, *half of one cent* ; for each sled drawn by two horses or a yoke of oxen, *one cent* ; and if by more than two horses or one yoke of oxen, *one cent* for each additional pair of horses or yoke of oxen : and at all times, when the toll gatherer shall not attend his duty, the gates shall be left open, and if any person shall, with his carriage, team, cattle or horses, turn out of said road, to pass the said turnpike gates on ground adjacent thereto, with intent to avoid the payment of the toll due by virtue of this act, such person shall forfeit and pay three times so much as the legal toll would have been, to be recovered by the treasurer of the said corporation, to the use thereof, in an action of debt or on the case ; provided that nothing in this act shall extend to intitle the said corporation to demand toll of any person, who shall be passing with his horse or carriage, to or from public worship, or with his horse, team or cattle, or on foot, to or from any mill, or on their common or ordinary business of family concerns within the same town.

May hold
lands, &c.

And be it further enacted, That the said proprietors are hereby impowered to purchase and hold in fee simple, so much land as will be necessary for said turnpike road, and the share or shares of any of said proprietors may be transferred by deed duly executed and acknowledged, and recorded by the clerk of said proprietors on their records ; and the share or shares
of

of any proprietor may be sold by said corporation, on non-payment of assessment duly made, agreeable to the by laws that may be agreed upon by said corporation.

And be it further enacted, That no toll shall be taken by said corporation for any mile of said road, until *six hundred dollars* shall have been expended thereon, or a proportionate sum upon the whole number of miles, reckoning from Bellows' falls in Walpole, to the place where said road may terminate.

When toll
may be ta-
ken.

And be it further enacted, That said corporation may be indicted for defect of repairs of said road, after the toll gates are erected, and fined in the same way and manner as towns are by law finable for suffering roads to be out of repair, and said fine may be levied on the profits and tolls arising or accruing to said proprietors.

May be fined
for defect of
repairs.

Provided nevertheless, and be it further enacted, That if said turnpike road shall in any part be the same with any highway now used, it shall not be lawful for said corporation to erect any gate or turnpike on or across said part of the road, that now is used and occupied as a public highway, any thing in this act to the contrary notwithstanding.

Proviso.

And be it further enacted, That when said proprietors shall make it appear to the Judges of the Superior Court of Judicature, that they have expended said sum of *six hundred dollars* on each mile, or a proportionable sum as before mentioned, the proprietors shall have the liberty to erect the gates as aforesaid.

May erect
gates, &c.

And be it further enacted, That at the end of every ten years, after the setting up any toll gates, an account of the expenditures upon said road, and the profits arising therefrom, shall be laid before the Judges of the Superior Court for the time being, under forfeiture of the privileges of this act in future; and if the neat profits for the said ten years, shall exceed *twelve per cent. per annum*, the said court may reduce the future toll, so far as that it may not exceed *twelve per cent.* and if the profits shall not amount to *six per cent.* the said court may raise the toll, so that it shall not be less than *six* nor exceed *twelve per cent.*

Accounts
to be laid
before S. C.

And be it further enacted, That if in ten years, the said road shall not be compleated, according to the provision in this act, every part and clause thereof shall be null and void: *Provided also,* that the State of New-

In case null
and void.

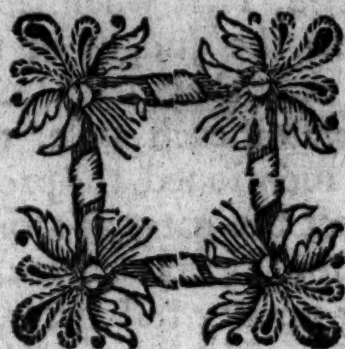
State may
repay, &c.

Hampshire,

Hampshire, may at any time after the expiration of forty years from the passing of this act, repay the proprietors of said road, the amount of the sum expended by them thereon, with *twelve per cent. per annum*, in addition thereto, deducting the toll actually received by the proprietors, and in that case the said road shall, to all intents and purposes, be the property of the State of New-Hampshire, any thing in this act to the contrary notwithstanding.

Approved Dec. 27, 1799.

21 JY 60



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